STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

In Re:	)	
	)	
David S. Chase	)	MPC 15-0203
	)	
Respondent	)	

MOTION FOR SUMMARY SUSPENSION

Now comes the State of Vermont and, by and through undersigned counsel, moves, pursuant to 3 VSA §814 (c), for summary suspension of the license of David S. Chase, M.D. (hereinafter "Respondent"). Based on the facts set forth below, Respondent constitutes an immediate threat to the public health, safety, and welfare:

JURISDICTION

1. The Vermont Medical Practice Board (hereinafter "Board") has jurisdiction over this matter as Respondent is currently licensed to practice medicine in the State of Vermont, holding license number 042-0003416.

COMPLAINT OF PATIENT A

2. On January 31, 2003, Patient A (hereinafter "Complainant") filed a complaint against Respondent. Complaint of Patient A, Attachment 1 (hereinafter "Attachment 1").
3. According to the Complainant, she saw Respondent on January 17, 2003 for blurry vision and headaches from eye strain. Attachment 1.

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4. Respondent examined Complainant while her eyes were dilated and diagnosed Complainant as having bilateral cataracts. Attachment 1; Respondent's Medical Records for Complainant, Attachment 2, p 5.
5. Respondent recommended to Complainant that she have cataract surgery and also informed Complainant that she did not need to obtain a second opinion. Attachment 1.
6. Respondent scheduled a pre-operative visit for Complainant for January 20, 2003, which Complainant subsequently cancelled. Attachment 2.
7. On January 23, 2003 Complainant saw Doctors Eriksson and Reid (optometrists) at their offices in Essex Junction, Vermont. Both optometrists informed Complainant that they were unable to find anything that warranted surgery. Attachment 1.

INDEPENDENT EVALUATION

8. At the request of the Board's Central Investigative Committee, Complainant underwent an independent evaluation on June 30, 2003 with Dr. Patrick J. Morhun, an ophthalmologist located in Lebanon, New Hampshire.
9. Without knowledge of the specific complaint against Respondent, Dr. Morhun concluded that Complainant's vision was 20/15 right eye and 20/15 left eye. Dr. Morhun states that these results are better than 20/20 vision, which is usually considered "perfect vision." Dr. Morhun found no evidence of cataract formation. Letter of Dr. Paul Morhun (with CV), July 16, 2003, Attachment 3.

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10. After it received the results of Dr. Morhun's evaluation of Patient A, the Central Investigative Committee requested that Dr. Morhun review Respondent's records of Patient A for an opinion as to whether or not Respondent's recommendation for cataract surgery met the standard of care. Letter of Dr. Patrick J. Morhun, July 18, 2003 (attached hereto as Attachment 4).

11. Dr. Morhun states that even offering cataract surgery to Patient A "falls below the standard of care in the face of the total lack of cataract formation." Attachment 4, p.2.

12. Dr. Morhun states that the "standard of care would be to indicate the patient's best spectacle corrected visual acuity somewhere in the chart." Attachment 4, p. 2. Dr. Morhun notes that Respondent's determination in the Patient A's initial eye examination (Attachment 2, p. 4) that Patient A' vision was 20/50 in each eye would be interpreted as Patient A's best spectacle corrected vision. Id. However, Dr. Morhun points out that I his examination of Patient A that her visual acuity with glasses was 20/15 in each eye. Id. Dr. Morhun "cannot explain why [Patient A] was not able to see better" on the day Respondent examined Patient A and states he is "very concerned about the inconsistency." Id.

13. Dr. Morhun also states that the "first alternative to operating on someone would be prescribing spectacle correction." Attachment 4, p. 3. Dr. Morhun notes that the record does not indicate spectacle correction was discussed and no evidence of testing for glasses change. Id.

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14. Dr. Morhun points out that Respondent's plan for Patient A was to perform cataract surgery on the left eye and then consider cataract surgery for the right eye "if and when [Patient A] was ready." Attachment 4, p.3. Because the first surgery would have created a power difference between the vision in each eye, a second operation would be required within one-two weeks. Id. Respondent was thus "planning on two operations when none is indicated." Id.

15. Dr. Morhun notes that Respondent stated in his response to Patient A's complaint (see Attachment 2, p. 8) that a second opinion might be that she did not require surgery because she could see well with glasses. Attachment 4, p.4.

16. Dr. Morhun points out that if Patient A could see well with glasses then she does not require surgery and the risks inherent in surgery. Attachment 4, p.4. According to Dr. Morhun, the risks in Patient A's case would be "infection, bleeding, loss of vision, and retinal detachment (which may be as high as 5% per eye . . .)." Id.

17. Dr. Morhun concludes that "the examination and recommendations of [Respondent] for [Patient A] on January 17, 2003 fall below the standard of care expected for an ophtalmic surgeon." Attachment 4, p.5.

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STATEMENT OF AMY M. LANDRY

18. On July 17, 2003, Board Investigator Phil Ciotti obtained a statement from Amy M. Landry. Attached hereto as Attachment 5.

19. Ms. Landry had worked for Respondent for eleven months but left his employ on July 11, 2003 because she was "unhappy with [Respondent]." Attachment 5, p.1.

20. Ms. Landry stated that she believed Respondent "crafted records to force patients into cataract surgery." Attachment 5, p.1.

21. According to Ms. Landry, recording of tests results was different for a patient that was above the age of 35 and had no prior cataract surgery (hereinafter referred to as "target group"). For patients in the target group, technicians were instructed not to record any test results in the chart, but instead to write testing results on post-it paper. Attachment 5, p.2.

22. One of the tests performed by the technician is a Contrast Sensitivity Test ("CST") with Brightness Acuity Test ("BAT"). As with the other tests for patients in the target group, the results of the CST with BAT were recorded on post-it paper. Attachment 5, p.2.

23. Ms. Landry states that if Respondent was dissatisfied with the results of the CST with BAT he would instruct the technician to perform the CST with BST again after the patient's eyes had been dilated. Attachment 5, p. 2. As Ms. Landry notes, results from CST with BAT after dilation "are always going to be bad." Id.

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24. For patients in the target group, the results of the CST with BAT (either before or after are recorded in the visual acuity space in the record instead of basic visual acuity, which is measured by the Snellen chart.[1] Attachment 5, pp.1-2. According to Ms. Landry, this is precisely what Respondent did with Patient A's results. Attachment 5, p. 4.

25. After the tests were performed Respondent would conduct a slit lamp where Respondent would, with patients of the target group, begin what Ms. Landry characterizes as a "spiel" concerning the presence of cataracts. Attachment 5, p. 2.

26. Respondent had his examinations transcribed and a "script" on an index card was taped to the machine in the examination for the benefit of the "scribe." Attachment 5, p. 2.

27. A search warrant was executed on July 18, 2003 at Respondent's offices and one of the items seized was the "script" index card in the exact location described by Ms. Landry, attached hereto as Attachment 6.

28. Ms. Landry states that the "speech about cataracts is verbatim almost every time." Attachment 5, p.3.

29. Ms. Landry states that in his speech about cataracts Respondent "tells every patient 'you don't need a second opinion, I'm going to give you a second opinion." Attachment 5, p.3.

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[1] In Ms. Landry's statement Snellen is mistakenly spelled "Snelling" due to an error in transcription.

30. In Patient A's records Respondent has recorded that he gave Patient A a second opinion. Attachment 2, p. 4.

31. Ms Landry states that there was a "big push" for surgeries until nine surgeries had been scheduled for the week. Attachment 5, p. 3.

32. According to the Respondent's surgical calendar for Tuesday July 22, 2003 (attached hereto as Attachment 7), nine surgeries are scheduled. Eight of the nine surgeries scheduled are for removal of cataracts.

33. Ms. Landry also recounts that she has observed, on at least two occasions, lesions or cysts removed by Respondent that were not sent to pathology to test for cancer. Attachment 5, p. 4.

REASONS FOR SUMMARY SUSPENSION

34. Based on the complaint of Patient A, the evaluation of Dr. Morhun and the statement of Ms. Landry , the State is prepared to file at least one count each of the following charges of unprofessional conduct pursuant to 26 V.S.A. §§ 1354 and 1398:

- Conduct which evidences unfitness to practice medicine under 26 V.S.A. §1354 (7);
- Willfully making and filing false reports or records in his practice as a physician under 26 V.S.A. §1354 (8);
- Willful misrepresentation in treatments under 26 V.S.A. §1354 (14);
- Consistent improper utilization of services under 26 V.S.A. §1354 (18);
- Consistent use of non-accepted procedures which have a consistent detrimental effect upon patients under 26 V.S.A. §1354 (19);

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- Failure to use and exercise on repeated occasions that degree of care, skill, and proficiency which is commonly exercised by the ordinary skillful, careful and prudent physician engaged in similar practice under the same or similar conditions under 26 V.S.A. §1354 (22);

- Immoral, unprofessional or dishonest conduct under 26 V.S.A. §1398.

35. Based on the experience of Patient A, the evaluation of Dr. Morhun and the sworn statement of Amy Landry, and Respondent's surgical calendar indicating eight cataract operations for Tuesday, July 22, 2003 support a finding that Respondent's conduct is an imminent threat to the public health, safety and welfare and imperatively requires the Board to take emergency action under 3 V.S.A. §814 (c).

WHEREFORE, the State of Vermont moves the Board to find respondent a threat to the public health, safety, and/or welfare and **SUMMARILY SUSPEND** Respondent's license to practice medicine.

Dated at Montpelier, Vermont this 20th day of July, 2003.

WILLIAM SORRELL
ATTORNEY GENERAL
STATE OF VERMONT
BY

Joseph L. Winn
Assistant Attorney General

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

FOR OFFICE USE ONLY:
Date signed _____
Received _____
Docket Number MPC 15028

VERMONT DEPARTMENT OF HEALTH
BOARD OF MEDICAL PRACTICE
PO Box 70, Burlington VT 05402-0070
800-745-7371

COMPLAINT FORM

Please Print

Date of Birth: [redacted]

Your last name [redacted] First name [redacted]

Street address [redacted]

Postal address (if different) _____

City/town, state, zip [redacted]

Daytime phone [redacted] Evening phone [redacted]

This is a complaint against a ✓ Physician (MD)

____ Physician's Assistant (PA) ____ Podiatrist (DPM)

RECEIVED
JAN 31 2003
VERMONT BOARD OF MEDICAL PRACTICE

Full name of Physician, Physician's Assistant or Podiatrist

David S. Chase, MD

Address 183 St. Paul Street

City/town, state, zip Burlington, Vermont 05401

Office phone 802 864-0381

Name and location of health care facility (if known) Mansfield Professional Building

NATURE OF COMPLAINT: Please describe, in detail, the nature of your complaint against this practitioner. Use the space on the reverse and additional sheets, if necessary.

I had been having symptoms of blurry vision, especially in my left eye and had headaches from eye strain. Since my regular doctor couldn't fit me in until March, I went to my boyfriend's doctor who got me in on January 17th, 2003.

Please turn over and complete other side

Continue your complaint here Dr. Chase did a quick exam while my eyes were dilated and diagnosed me with cataracts. He wanted to perform cataract surgery in both eyes and implant intra ocular lenses the following week. He said to not get a second opinion since he is the only one who can perform this surgery in Vermont. He said I needed to be tested for diabetes.

On January 23rd, 2003 I went to see Dr. Eriksson, O. and Dr. Reid Grayson, O.D. at 77 B Pearl ST in Essex Junction, VT and both doctors did not see any cataracts in my eyes to warrant sudden surgery. I have since heard of other people being unhappy with Dr. Chase.

I am getting a new pair of progressive bifocals and a new pair of progressive bifocals for computer work (which I do 8 hrs/day) which will solve the blurry vision.

I feel Dr. Chase caused me and my family unnecessary anguish and I feel that what he did to me was unethical. He never disclosed how much the surgery was going to cost - even after I asked several times.

Attach copies of any supporting materials you may have relevant to your complaint, such as medical, pharmaceutical, or insurance records.

Please note: Investigation of your complaint also requires your signed release. When we receive both this signed Complaint Form and your Authorization for Release of Medical Records, we will send an acknowledgement assigning a Docket Number to your case.

[redacted]
Your Signature

January 28, 2003
Today's Date

Mail this form to:

VERMONT DEPARTMENT OF HEALTH
BOARD OF MEDICAL PRACTICE
PO Box 70
Burlington VT 05402-0070

Patient Name [redacted] Age 43 Date 1-17-03

MPC 15-0203

Standard Acuity/Contrast Acuity

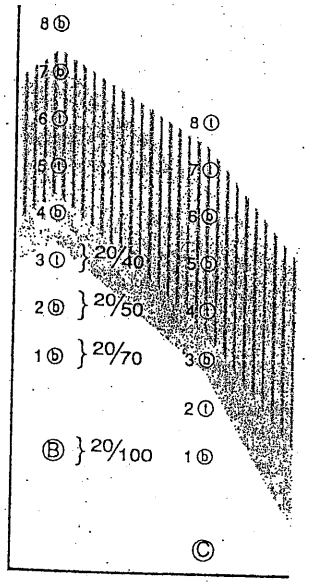
Acuity Value	Standard Acuity	25% Contrast	12.5% Contrast	LogMAR
20/100	C Z R	O N V	R H S	.7
20/80	H R C	N R O	K O N	.6
20/63	K S N	Z K C	S N V	.5
20/50	O K N	H C D	V O H	.4
20/40	O H V	C K N	D N C	.3
20/32	S R Z	Z C K	K O H	.2
20/25	Z O V	C K H	N C D	.1
20/20	N V C	S R N	D O Z	0.0
20/16	S Z R	D N O	V H C	-.1

No Glare OD____ OS____ OD____ OS____ OD____ OS____

Glare* OD____ OS____ OD____ OS____ OD____ OS____

Contrast Sensitivity/Functional Acuity

No Glare

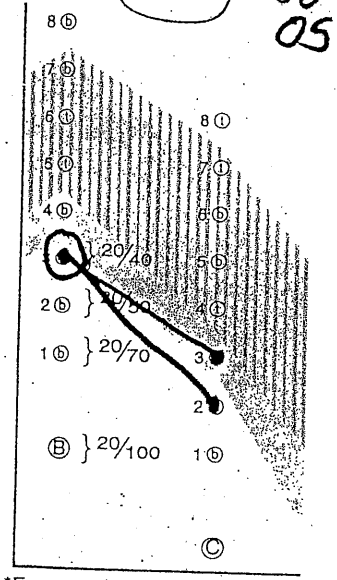


Ages 60-69
Ages 70-80

X-OD
O-OS

Glare*

OD
OS



*For use with hand-held glare tester.

	No Glare		Glare	
Standard Acuity	OD____	OS____	OD____	OS____
Functional Acuity	OD____	OS____	OD____	OS____

VECTORVISION FORM 1000CVA

RIGHT C24-2

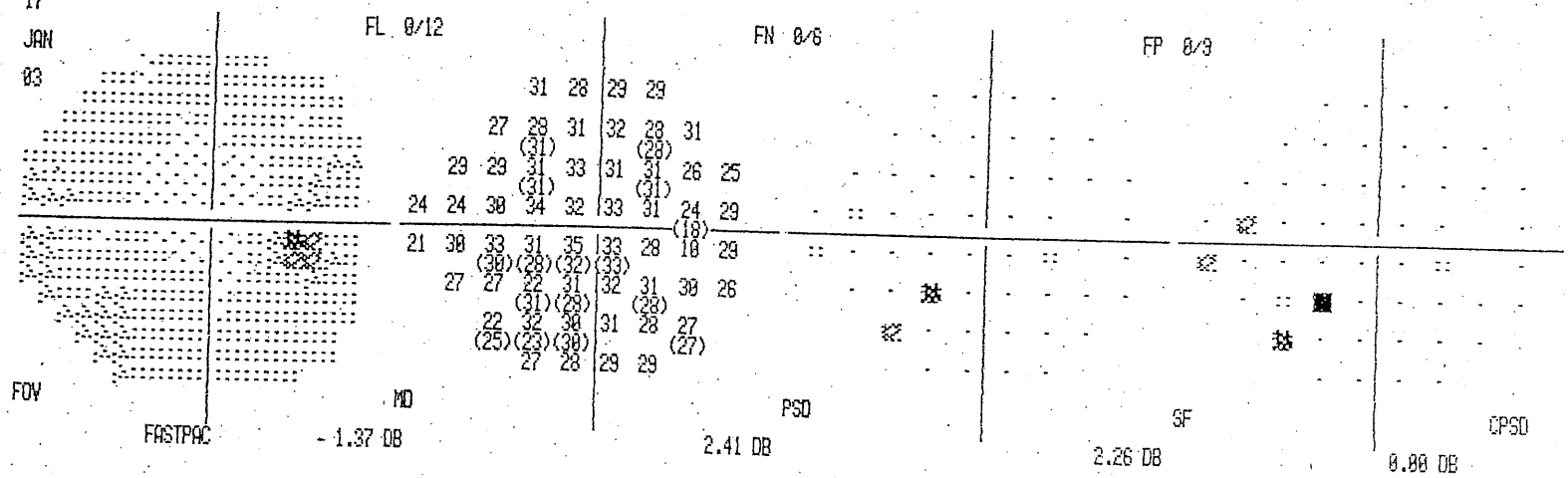
AGE 44 STRATEGY FULL THRESHOLD

RX USED - 7.00 DS DCX DEG

FIXATION TARGET CENTRAL

TIME 01:34:11 PM

17 JAN 03



LEFT C24-2

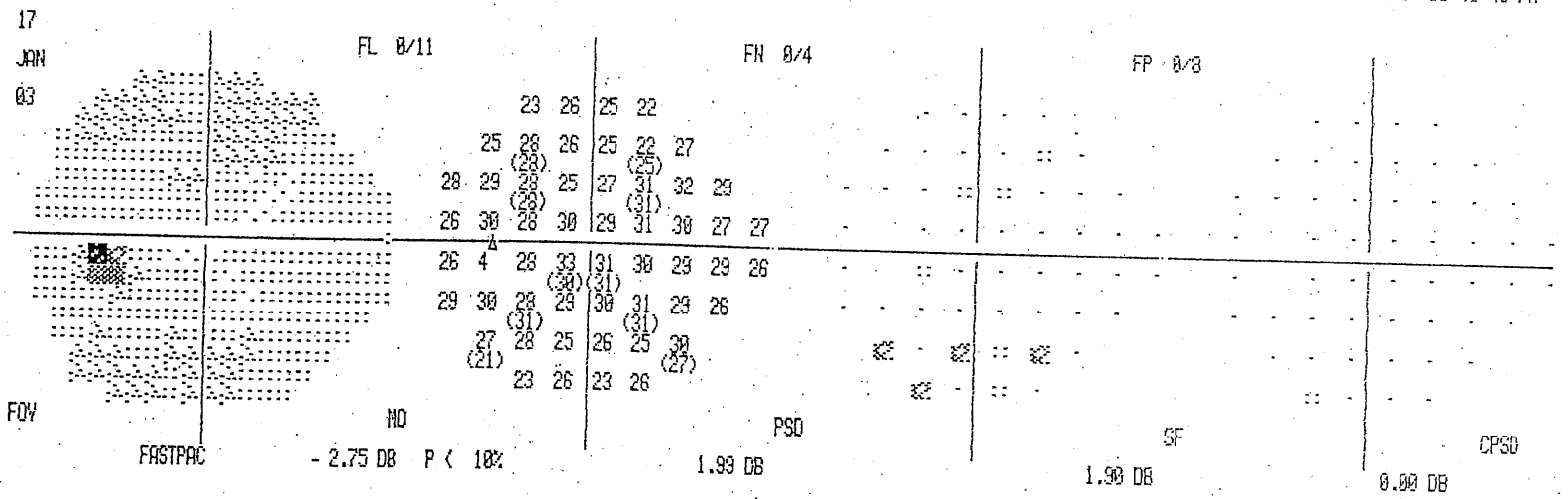
AGE 44 STRATEGY FULL THRESHOLD

RX USED - 7.75 DS + 2.50 DCX 92 DEG

FIXATION TARGET CENTRAL

TIME 01:40:40 PM

17 JAN 03



PROBABILITY SYMBOLS

:: P < 5%

P < 2%

P < 1%

P < 0.5%

NAME [redacted]

CASE NUMBER 10718

DATE	FOLLOW UP	
1-20-03	Ms. [redacted] left message to Cancel todays Pre-op visit for upcoming Cataract Surg. Mary Clair Martin	Plan: F/U Phone call 1-22-03 to reschedule Pre-op visit.
1-22-03	T.C. to Ms [redacted] in regards to Pre-op Cataract Surg. Visit. Pt States to Cancel the Surg. Unsure about Cataract Surg. in the process of getting Second opinion. Also States She will call if & when She is ready to reschedule. Dr Chase notified. Mary Clair Martin	Plan: Place in recall for 1 year. 1-04
1/24/03	As per Dr. Chase's instructions, I contacted the patient asking her to update her most recent eyeglass Rx. She indicated that she is going to hold off until she makes a decision about cataract surgery. WL, OD	
1/29/03	Dr. summary mailed to patient MJV	

INITIAL EYE EXAMINATION

(43)

CASE NUMBER 10718

NAME [redacted]

BIRTH DATE 7.3.59 SEX F S M W D

ADDRESS [redacted]

PHONE [redacted]

OCCUPATION

REFERRED BY

DATE 1-17-03

HISTORY CC 1. PRESENT ILLNESS 2. PAST HISTORY 3. FAMILY HISTORY

ER

Here to make sure no Eye disease.

- OS blurry x 2-3 wks
  Noticed VA darker OS than OD
- Has HA's from Eye strain
  Has difficulty reading - gets nauseous
- Eyes get very dry. Wants artificial tears.
- Unable to see to drive clearly at night.

Med: see green sheet Estratest

Allerg: ∅

BS

BP

Not Known.

HEALTH Hx REVIEWED

1. VISION

V OD 20/50
OS 20/50 (near J1)

Has Monocular blurring due from central cataracts.

Nidek Manifest (Cyclo)

OD -9.50 +.25 x 100
OS -10.25 +2.25 x 85

Manifest Refraction — over own Rx

OD +.25 +.25 x 180
OS PL +.50 x 180
ADD +1.50

- no significant Improvement

Cycloplegic Refraction

OD

OS

Rx Given

Present Glasses RX: 1+ yr.

IGHT	
SPH:	-10.50
CYL:	+1.00x105
ADD:	+0.50
ADD:	+1.00
EFT	
SPH:	-10.75
CYL:	+2.50x 92
ADD:	+0.50
ADD:	+1.00

20/50
20/50

NAME [redacted]

CASE NUMBER 10718

DATE 1/17/03

3. OCULAR MOTILITY:

ortho xct N&F Full D & V -MG NPC

OD WNL ☐ OS WNL ☐ other ☐

4. SLIT LAMP EXAM:

Cornea: Epithelium Stroma Endothelium

Tear Film: Staining B.U.T. Shirmer

OD WNL ☑ OS WNL ☑ other ☐

5. CONJUNCTIVA:

Bulbar Palpebral

OD WNL ☑ OS WNL ☑ other ☐

6. LENSES:

Clarity Ant. & Post. Capsule Cortex Nucleus

OD WNL ☐ OS WNL ☐ other ☑

7. ANTERIOR CHAMBERS:

Depth Cells & Flare Angle

OD WNL ☑ OS WNL ☑ other ☐

8. OCULAR ADNEXIA:

Lids Lacrimal Glands Lacrimal Drainage

Orbits Preauricular Nodes

OD WNL ☑ OS WNL ☑ other ☐

9. PUPILS & IRIDES:

PERRLA ☐ other ☐

10. DILATED EXAM:

Optic discs:

size c/o ratio appearance nerve fiber layer

OD WNL ☑ OS WNL ☑ other ☐

11. POSTERIOR SEGMENTS:

Retina Vessels Background Fovea/Macula

OD WNL ☑ OS WNL ☑ other ☐

12. DETAILED INDIRECT: no retinal holes or tears seen

OD WNL ☑ OS WNL ☑ other ☐

13. VF TESTING:

OD WNL ☐ OS WNL ☐ other ☐

(1) handed (R) eyed

Alternatives & complications of cataract surgery discussed c Pt. Pt. told about 2° cataracts

Pt given cataract pamphlets. Pt. given 2° opinion

Pt. told about monovision

Pt told would be given bifocals post-op to fine-tune VA.

3 | 10 | 1 | 03

A-grid Red normal OU

10-11 PPON poorly seen but appears wnl OU

6- Dense cent nuc cort cataract OS > OD

no Epiphora

clears dye well

good Endothelium

DIAGNOSIS: Myopia

Presbyopia

Cataracts OU

ASSESSMENT & PLAN:

Patient advised of the potential risk & complications related to treatment and/or surgery ☐

Patient Education Completed ☐

plan CBC & 2 hr PP BS for surgeon to A

[illegible] new BS

repeat A-scan plan Endo

plan OS phaco cataract extraction c IOL

Set OS distance then consider OD

if & when ready. Set OD ~~-4.50~~ -2.00

Return 1-2 Day(s) Week(s) Month(s) Year(s) ER 7-04

Patient Information Sheet

Dr. David Chase 802-864-0381

Patient's Name [redacted]
Mr/Mrs/Ms/Miss Last First Middle

Social Security # [redacted] **Date of Birth** [redacted]

Mailing Address [redacted]
Street City State ZIP

Telephone [redacted]
Home Work

Employer [redacted] **Occupation** [redacted]

Employer Address [redacted]

Spouse's Name _____ **Work Phone** (___) _____

Emergency Contact Person [redacted] **Phone** [redacted]

If under 18 or student, name of Parent/Guardian _____

Phone (___) _____

Primary Care Physician: [redacted] **Address** _____

Insurance Information: Medical and/or Vision _____

Insurance Company [redacted]

Certificate No. _____ **Group No.** _____

Name Insurance is under and Company _____

Secondary Insurance Company _____

Certificate No. _____ **Group No.** _____

Name Insurance is under and Company _____

Is this visit work related? No **Date of accident** _____

Workers' Compensation Carrier _____

Eye & Health History

Name: [redacted] **Date:** 1/13/03

Yes	No		Yes	No	
☐	☐	Asthma or Respiratory Disease	☐	☐	Head or Spinal Injuries
☐	☐	Kidney Disease	☐	☐	Seizures, Convulsions, or Fainting
☐	☐	Cancer	☐	☐	Temporal Arteritis
☐	☐	Diabetes IDDM/Type II ____ # of yrs ____	☐	☐	Carotid Artery Disease
☐	☐	Insulin	☐	☐	Are you Pregnant?
☐	☐	Migraines	☐	☐	Stroke/TIA
☐	☐	Psychiatric Disorder	☐	☐	HIV, Hepatitis B/C, TB, ot[redacted]
☐	☐	Any Nervous Disorder	☐	☐	Blood (free bleeder, anemic)
☐	☐	Heart Disease	☐	☐	Thyroid
☐	☐	Ulcer	☐	☐	Extensive confinement from illness or injury
☐	☐	High Blood Pressure ____ # of yrs ____	☐	☐	Permanent defect from illness, disease or injury
☐	☐	Sickle Cell Anemia	☐	☐	Suffering from any other disease
☐	☐	Ear, nose, throat & mouth ____	☐	☐	Do you smoke? Packs Per Day ___ Wk. ___ Mo. ___
☐	☐	Skin (cancer, shingles) ____	☐	☐	Do you drink? No. Per Day ___ Wk. ___ Mo. ___
☐	☐	Muscles, Joints ____	☐	☐	Do you live alone?

Are you currently experiencing any eye symptoms? (please circle all that apply)

Eye pain Blurred vision Eyelid crusting Flashes of light Halos Tearing

Discharge Light sensitivity Double vision Decreased vision Floaters Bothered by glare

Please List All Medications You Are Currently Taking: Estrotest

Please List All Medications You Are Allergic To: ____

New Patient Ocular History (Have you been diagnosed with any of the following in the past?)

Yes	No		Yes	No		Yes	No	
☐	☐	Cataracts	☐	☐	Cornea Disease	☐	☐	Iritis
☐	☐	Retina Disease	☐	☐	Glaucoma	☐	☐	Injury
☐	☐	Crossed Eyes	☐	☐	Other Eye Disorders ____			

Cataract Surgery (Date of Surgery) Right ____ Left ____

Do you have a lens implant? Yes ☐ No ☐

Retina Surgery (Date of Surgery) Right ____ Left ____

Explanation of Eye Injury ____

Family History: Has anyone in your family (blood relative) had any of the following (please note relationship):

F-Father **M**-Mother **P**-Paternal **M**-Maternal **S**-Sister **B**-Brother **GF**-Grandfather **GM**-Grandmother **U**-Uncle **A**-Aunt

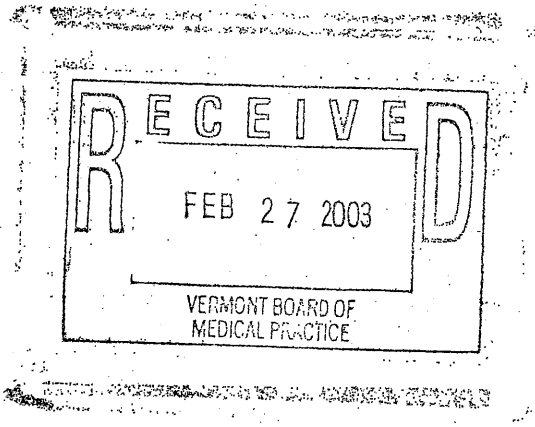
Yes	No		Yes	No	
☐	☐	Glaucoma ____	☐	☐	Retinal Detachment ____
☐	☐	Cataracts ____	☐	☐	Other Eye Problems ____
☐	☐	Cornea Disease ____	☐	☐	Diabetes ____
☐	☐	Macular Degeneration ____	☐	☐	Heart Conditions ____
☐	☐	Retinitis Pigmentosa ____	☐	☐	Stroke ____

TELEPHONE 802-864-0381

DAVID S. CHASE, M.D.
OPHTHALMOLOGY
Mansfield Professional Building
183 St. Paul Street
Burlington, Vermont 05401

HOURS BY APPOINTMENT

February 26, 2003



Mr. John Howland, Jr.
Vermont Department of Health
Board of Medical Practice
P.O. Box 70
Burlington, VT 05402-0070

RE: Docket Number MPC 15-0203

Dear Mr. Howland:

In response to the above matter, please accept the following response.

[redacted]ame to see me on January 17, 2003, on a fairly urgent basis because she was unable to see her regular doctor and because she had been having blurry vision for the past 2-3 weeks, headaches, difficulty reading, dry eyes and an inability to see while driving at night. I did testing which revealed central cataracts in both eyes.

Following the eye exam, I discussed alternatives and complications of cataract surgery. I recommended that she have surgery to remove the cataracts and told her that if she got a second opinion it might be that she did not need cataract surgery if she could see well enough with corrective bifocals. I did not tell her not to seek a second opinion, but told her what I thought might be an alternative to surgery. It was my opinion then, and is my opinion now that [redacted] has cataracts and that removal of those cataracts would, in the long run, be a better solution to her eye problems than getting new eyeglasses.

I do not recall that [redacted] ever asked me how much the surgery would cost. If she did, there is no reason why I would not have told her. In addition, cost and other issues are normally discussed at the pre-op appointment which was scheduled for January 20, 2003, which she cancelled.

Very truly yours,

David S. Chase, M.D.

DSC/mjv

David S. Chase, M.D.
183 St. Paul Street
Burlington, VT 05401

Ophthalmology
802 864-0381

SUMMARY OF MEDICAL RECORDS

DATE:	January 28, 2003
TO:	[redacted]
CHART NO:	10,718
PATIENT:	[redacted]
DATE OF BIRTH:	7/3/59
DATE OF LAST VISIT:	1/17/03
DIAGNOSIS:	Myopia, presbyopia, bilateral cataracts.
SURGICAL HISTORY:	N/A
LASER HISTORY:	N/A
VISUAL ACUITY:	OD (20/50) OS (20/50-) With CST & Bat
INTRAOCULAR TENSIONS:	OD 11 OS 11
VISUAL FIELDS:	WNL-Copy of visual fields enclosed.
OPHTHALMOSCOPY:	WNL
MEDICATIONS:	N/A
GLASSES RX:	OD -10.25 +.75 x 110 OS -10.50 +2.00 x 92 +1.50 ADD
OTHER:	The patient was advised to get a 2 Hr. P.C. blood

Patrick J. Morhun, MD, PC
Diplomate, American Board of Ophthalmology
Specialist in Cataract Surgery
6 South Park Street
Lebanon, NH 03766
603-448-6008

July 16, 2003

Mr. Phil Ciotti
Vermont Department of Health
Board of Medical Practice
PO Box 70
Burlington, VT 05402-0070

Dear Mr. Ciotti:

I was asked to examine [redacted] on behalf of the Board of Medical Practice on June 30, 2003. At that time, I found her best spectacle-corrected vision to be 20/15 right eye and 20/15 left eye. This vision is even better than 20/20, what most people would consider to be "perfect vision." There was *no evidence at all* of cataract formation in this patient. In my professional opinion, she is definitely not a candidate for cataract extraction at this time.

I have attached a copy of my recent curriculum vitae for your review. My practice is dedicated almost entirely to cataract surgery. Since arriving in this area in 1997, I have performed nearly 4000 cataract surgeries, and I am one of the busiest cataract surgeons in Northern New England. I will be reviewing the chart of the above named patient for you, but I wanted to get this brief note in your hands as soon as possible. If I can be of further assistance, please contact me at the address above.

Sincerely,

Patrick J. Morhun, MD

Patrick J. Morhun, MD, PC
Diplomate, American Board of Ophthalmology
Specialist in Cataract Surgery
6 South Park Street
Lebanon, NH 03766
603-448-6008

Curriculum Vitae

Born in Winnipeg, Manitoba, Canada - October 18, 1965
Citizenship: USA

1983-1986	Undergraduate in Faculty of Science, University of Manitoba, Winnipeg, Manitoba Degree Granted: BSc.
1986-1990	Undergraduate in Faculty of Medicine, University of Manitoba, Winnipeg, Manitoba Degree Granted: M.D.
1990-1991	Internship at Scarborough General Hospital, University of Toronto, Scarborough, Ontario
1991-1993	Worked as Emergency Room Physician and General Practice Physician, Grace Hospital, Windsor, Ontario
1993	Research Fellowship, Jules Stein Eye Institute, UCLA, Department of Cornea, External Disease, Los Angeles, California
1994-1997	Resident in Ophthalmology, Jules Stein Eye Institute, UCLA, Los Angeles, California
1997 to Present	Private Practice, Specialist in Cataract Surgery, Lebanon and Claremont, New Hampshire

Memberships/ Certifications

Diplomate, American Board of Ophthalmology
Fellow, American Academy of Ophthalmology
Member, American Medical Association
Member New Hampshire Medical Society
Member, New England Ophthalmology Society
Member Jules Stein Eye Institute Alumni Society

Medical Licenses Held

State of Vermont
State of New Hampshire
State of California

Patrick J. Morhun, M.D., P.C.
Diplomate, American Board of Ophthalmology
6 South Park Street
Lebanon, NH 03766
(603) 448-6008

July 18, 2003

Phil Ciotti
Vermont Board of Medical Practice
PO Box 70
Burlington, VT 05402

RE: [redacted]

Dear Mr. Ciotti:

The purpose of this letter is to review the clinical notes of Dr. Chase related to his visit earlier this year with [redacted] I will review the faxed documents you provided to me on a page-by-page basis.

The first page is the standard acuity and contrast acuity form. In the upper half of this page it appears that Dr. Chase has indicated the vision in the right eye is 20/30- and the left eye is 20/50+2. That may be the contrast vision. The lower half of the page shows his glare testing probably done with a hand-held glare tester.

The next page is the standard visual field test results, the 24-2. It shows a full visual field test in both eyes within normal limits. I am not sure if Dr. Chase routinely performs this visual field test on all of his patients. I do not see reference in the patient's chart to her being a glaucoma suspect. It is not my routine practice to perform a visual field test on all patients on their initial visit.

The next page is a telephone record for [redacted] Case# 10718 showing that on January 20, 2003 she decided to cancel the preoperative visit for the upcoming surgery. On January 24, 2003 Dr. Chase's notes indicate the patient was going to "hold off" on updating her prescription for glasses until "she makes a decision about cataract surgery." It appears that Dr. Chase did not try to improve the vision by changing spectacle glasses but he may have only recommended surgery for the patient. On her examination in my office I noted she had vision of 20/15 in both the right and left eye with the glasses she indicated were prescribed three months earlier. The preferred course of events would be to be conservative and try a glasses change first. At the very least, the surgeon needs to know what the patients best-corrected vision is with an in-office trial of spectacles either in a trial frame or a phoropter or other vision measuring device. Cataract surgery would be considered a final option after conservative measures had been exhausted. The

[redacted]

chart indicates that plans were in place for a recall for [redacted] in January of 2004. In my opinion, even offering cataract surgery to this patient for visual rehabilitation falls below the standard of care in the face of the total lack of cataract formation on my examination June 30, 2003.

The next page is the initial eye examination and this states [redacted] presented with left eye blurriness for a duration of 2-3 weeks and that she noticed her vision was darker in the left eye compared to the right eye. She complained of headaches from eyestrain and had difficulty reading with nausea. Her eyes get very dry and she wanted artificial tears. She was unable to see to drive clearly at night. On [redacted] visit to my office (6/30/03) she reported she had no eye complaints and that her vision was fine. This of course was after she had obtained the new spectacle correction that may have solved some of her problems listed above. Certainly, the entrance complaint in Dr. Chase's office and my office were totally different. There appears to be notation that says the patient has constant blurriness in the vision in the left eye from cataract and the rest is difficult for me to read. The complaint in the chart also states the patient has monocular blurriness from central cataracts. The vision is noted in the chart with brackets around it saying 20/50 right eye and 20/50 left eye. There is no indication that this is contrast sensitivity vision. Any chart reviewer would interpret this to mean that this was in fact her vision with glasses on in the office that day (without any glare testing). The standard of care would be to indicate the patient's best spectacle corrected visual acuity somewhere in the chart. Because there is no indication of contrast sensitivity I would assume this vision is the best that [redacted] could see in her right eye and her left eye with the glasses she is wearing (of course her vision with glasses was 20/15 right eye and 20/15 left eye in my office on June 30, 2003). I am very concerned about this inconsistency. The next notation is that she is highly nearsighted with an autorefraction measurement of approximately of –10.50 in the right eye and –10.75 in the left eye based on the computer print out. The chart notes there is no significant improvement with glasses on this examination. I cannot explain why she was apparently not able to see better than this on that day. There is also 20/50 and 20/50- written indicating that the right eye's vision is 20/50 and the left eye's vision is 20/50- and after this is the initials CST with BAT indicating contrast sensitivity testing with brightness acuity testing. Dr. Chase believed there was no benefit to prescribing eyeglasses at this time, which would be indicating that cataract surgery was the only alternative for [redacted] at this time.

The next page, number 3 Ocular Motility and the examination continues with a basically normal eye examination indicated on the left hand column specifically no retinal tears or holes seen but number 6 Lens Description is expanded on the right side of the page indicating dense anterior nuclear cortical cataracts, left eye greater than right eye. I did not see this finding on my examination of the patient when her vision measured 20/15 in each eye with her spectacles. I do not support the diagnosis of dense cataract (or any cataract formation at all) for the above named patient. The upper part of the page indicates an Amsler grid testing which is a test of central retinal function, which does appear normal in both eyes. Number 10-11 states posterior pole or retina OD poorly seen but appears within normal limits OU. It appears Dr. Chase is indicating he could not see the retinal clearly in the patient's right eye on his examination. The diagnoses

[redacted]

listed include: 1. Myopia; 2. Presbyopia; 3. Cataract in both eyes. On the left-hand side of this column there is some hand written notes indicating alternative and complications of cataracts surgery discussed. Certainly the first alternative to operating on someone in this circumstance would be prescribing spectacle correction. This does not appear to have been done on this examination. In fact, the record appears incomplete. I do not see evidence of the refraction (check for glasses change) being done by Dr. Chase. It states the patient was told about secondary cataracts, which is where the patient may require a laser treatment after the initial cataract surgery to further sharpen the vision. It states the patient was given cataract pamphlet. "Patient given second opinion." I am not clear what this refers to. Patient told about monovision. Patient would be given bifocals post op for and I can not read the remaining sentence. It appears that they were considering with [redacted] make one eye better for distance and one eye better for near vision so she would be better able to function in all aspects of her occupation which includes looking far away and reading close up. Presbyopia, her diagnosis indicates she is having some difficulty with near vision without the use of any bifocal correction. There is a plan for a CBC and a two-hour blood sugar test to be done after the patient eats. I am assuming Dr. Chase was concerned about possible diabetes in this patient. This could be consistent with blurry vision. It is not my custom to order blood sugar tests on a patient (I usually refer back to the family doctor), however this may be the standard Dr. Chase is familiar with. There is reference for an A-scan being planned for the patient, which is when the patient's eye is measured to determine the strength of the implant lens to be placed to optimize the patient's vision after surgery. The next item says Plan OS phaco cataract extraction with IOL which indicated a commitment to proceed with cataract surgery with an intraocular lens implantation. The next line states "set OS at distance then can consider OD if and when ready." This means they will consider cataract surgery on the right eye when the patient is ready to proceed with the surgery after left eye surgery. Performing surgery on the left eye would in fact commit her to either wearing a contact lens on the right eye on a full time basis or having cataract surgery on the right eye within 1-2 weeks in order to minimize the disruption to the loss of binocular vision (due to anisekonia- see below) the patient would suffer with the left eye being perfect for distance vision and the right eye being extremely nearsighted. Most normal adults can tolerate anisekonia (different image size on the retina) of 3-8%. Anisekonia is most commonly caused by unequal refractive errors. A handy rule-of-thumb is that each diopter difference changes retinal image size by 2%. Thus surgery would create an immediate (-10 –0) x 2% = 20% intolerable image size difference between the two eyes. In other words, there is no way this patient will <u>not</u> have the second eye operated on once the first surgery is done due to the freshly created power difference in the two eyes (unless she starts wearing a contact lens all the time on the non-operated eye, and I don't see evidence of this discussion having occurred). Dr. Chase apparently planned to set the right eye at 2 units of nearsightedness so the patient would better be able to read after the cataract surgery on the right eye. It appears they say they would do the surgery if and when ready but they know that the surgery on the right eye is going to follow closely the surgery in the left eye. They are planning on two operations for this patient when <u>none</u> is indicated in my professional opinion.

[redacted]

The next page is the Patient Information sheet indicating [redacted] demographic information.

The next page is the Eye and Health History sheet indicating the patient complained of blurred vision as her main eye symptom. There is no indication that she complained of problems with glare or other symptoms associated with cataracts, only blurred vision. I am assuming the patient filled this out. The patient's other responses were normal.

The next page is a copy of a letter Dr. Chase has written to John Howland from the Vermont Department of Health on February 26, 2003. Dr. Chase states [redacted] had been having blurry vision, headaches, difficulty reading, dry eyes and difficulty seeing at night. It states that Dr. Chase found central cataracts in both eyes, a finding I disagree with. It states he discussed the alternatives and recommended she have cataract surgery and he also mentioned if she obtained a second opinion that the second opinion might say she didn't require cataract surgery because she could see well with glasses. Clearly if [redacted] is able to see well with glasses then she does not require cataract surgery which would expose her to the risks of surgery including infection, bleeding, loss of vision and retinal detachment (which may be as high as 5% per eye in this case). Dr. Chase states [redacted] would be better off in the long run with cataract surgery rather than getting new eye glasses. I do not agree with that statement. I always recommend my patients obtain a second opinion if they voice any concerns regarding the need for surgery in my practice. I believe that is the practice of most ophthalmologists.

The next page is a computer-generated summary of the medical records stating that the patient had bilateral cataracts and that she was advised to get a blood test. It also states her visual acuity was 20/50 in the right eye and 20/50 in left eye with contrast sensitivity and brightness acuity testing. There is no reference to what her best corrected vision with spectacle lenses without brightness acuity or contrast sensitivity testing.

The last page is the request for medical records by Helena Nordstrom.

In summary, it appears that Dr. Chase did not correctly document the patient would have sustained tremendous improvement in her vision with spectacles. He recommended cataract surgery for this patient where I do not see evidence of cataract. This would subject the patient to the risks implicit with any surgery on the eye but in particular for [redacted] the increased risk of retinal detachment due to her status of a highly nearsighted (myopia) patient. Dr. Chase seems to be recommending a clear lens extraction for [redacted], a procedure that is not covered by insurance and is considered a refractive procedure. Although his documentation indicates cataracts are present, my examination does not support this. [redacted] Nordstrom does not require cataract surgery at this time. Additionally, [redacted] did not appear to be bothered by wearing her glasses and was not interested in perusing refractive surgery of any kind. I specifically discussed LASIK surgery where the cornea is reshaped to

[redacted]

allow her to see better without glasses. I also discussed contact lenses with her and she did not appear interested in either option.

It is my opinion that the examination and recommendations of Dr. Chase for [redacted] on January 17, 2003 fall below the standard of care expected of an ophthalmic surgeon.

Thank you very much.

Sincerely,

Patrick Morhun MD

Patrick J. Morhun, M.D.
PJM/klc

[redacted]

State of Vermont
Board of Medical Practice

NAME: Amy M. Landry DOB: 11-8-71

ADDRESS: 119 Ira Allen Ct. Colchester, VT 05446

HOME PHONE: _____ WORK PHONE: _____

PLACE OF BIRTH: Burlington, VT

I Amy M. Landry, hereby swear under the penalty of perjury (not more than 15 years, not more than $10,000.00 or both) that the following facts are true to the best of my knowledge and belief.

I worked for Dr. Chase for the past 11 months. I left last friday. I left because I was unhappy with Dr. Chase. I didn't like his work ethics. I didn't like the way he treated patients and employees. He was a nasty person to work for. He told me I was unemployable. He asked why I couldn't be "normal" like the others. He was very particular about record keeping. It was hard to figure out how he wanted to keep records. It was mysterious. I felt he created records to force patients into cataract surgery. He made the techs. put CST with BAT tests in the place where spelling results would go. However the way this would occur is the Techs. would write results on a yellow

Subscribed and sworn to before me on this

_____ day of _____ 20___

X _____
Affiant

_____
Notary Public

17 JUL 03
Date

State of Vermont
Board of Medical Practice
STATEMENT CONTINUED

sticky note. Then we go through the rest of the exam. So the spelling goes on a sticky. Refraction goes on a sticky. They are corrected down to their best visual acuity. Then they are given a CST with BAT. That result [redacted] goes on [redacted] (The policy was anyone 35 and over that did not have prior cataract surgery. The results did not go in the chart. It went on a sticky).

At this point we are done with all of the tests, Dr. Chase comes in. He goes over the chart. If the CST with BAT isn't bad, he'll ask the Tech [redacted] to do another CST with BAT and the eyes are already now dilated. These results are ALWAYS going to be bad. He takes these results and reads it under the visual acuity.

So now he just starts leaning into a "slit lamp" exam and he starts saying "Dense Central Nuclear Cataract OU" to the scribe. This is before he can even see anything! He also sometimes says "I fancy I see a cataract". He has a "script" for us on an index card. This is kept in the scribe room (Exam room). It is taped on to the machine. He has this [redacted] for the scribe because he gives the same spiel each time about cataracts.

Subscribed and sworn to before me on this
____ day of _____ 20___

_____
Affiant

_____ 17 JUL 03
Notary Public Date

State of Vermont
Board of Medical Practice
STATEMENT CONTINUED

So we can just look at the index card and record on the chart what it says. There is a big push for surgeries UNTIL he had his 9 scheduled for the week but then it is not as bad. Prior to that it seems EVERY patient in the target group gets told they have cataracts.

In his general speech about cataracts he tells EVERY patient "you don't need a second opinion, I'm going to GIVE you a second opinion." The speech about cataracts is verbatim almost every time. If a question gets inserted he sometimes starts over from the beginning like it broke his train of thought and he needed to start from the beginning.

I know he operates unethically. The other Techs. and I would frequently "vent" to Dr. Devitas. We would try to steer patients to him when we could because I think he's a good Dr. He wanted to talk to Steve Green to get this to stop but I heard he got layed off so I don't think it helped. We all see this was wrong. We brought the concerns to his wife because she is CEO. She said he's set in his ways. She has made him come in to apologize to employees for things but she wasn't assertive enough to make any real effect.

Subscribed and sworn to before me on this
____ day of _____ 20___

Affiant

Notary Public

17 JUL 03
Date

Mailing Address:
109 State Street
Montpelier, VT 05609-1106
Tel.: (802) 828-2673
Fax: (802) 828-5450

Office Location:
One Prospect Street
Montpelier, VT 05602

State of Vermont
Board of Medical Practice
STATEMENT CONTINUED

The Techs would frequently talk amongst each other about. Almost daily. It was a joke but it wasn't. If an elderly patient came in with no vision problems, didn't drive, maybe a regular check-up or have their glasses checked we would say, watch, they'll be told they have cataracts and sure enough they would get told that.

Dr. Devita used to tell patients that even if they had slight cataracts if they weren't a real problem they could live with them. Dr. Chase got wind of that and there was an argument over it. I know Dr. Devita had a meeting with Mrs. Chase and Steve Green and told them he thought things were wrong and unethical. But he got laughed off.

On [redacted] chart I saw where he fudged the spelling and CST with BAT results. Dr. Chase wrote that she wanted cataracts removed when she did not. He also had it noted the HE gave a 2nd opinion. That language on the chart is what is on the script given to the Techs.

Another concern I've had was I've seen on at least two occasions he removed lesions or cysts on eyelids. He never sent those tissues in for pathology to check for cancer, and I never thought that was right.

Subscribed and sworn to before me on this 17 day of July 2003

X Amy Marie Landry
Affiant

Notary Public

17JUL03
Date

Plan: OD/os phacocataract extraction at distance/near then Consider OD/os if and when ready. Set OD/os at _____.

1.) Alternatives + complications of Cataract Surgery discussed w pt.
2.) pt told about 2° cataracts.
3.) pt given 2° opinion.
4.) pt told about Monovision.
5.) pt told would be given bifocals post op to fine tune VA.

Plan A Scan + Endothelial Cell Count

SURGICAL SCHEDULE

Tuesday (DAY) July 22, 2003 (DATE)

TIME	PATIENT NAME	AGE	CHART#	PHONE#	EYE	PROCEDURE
6:30	[redacted] ?PCN	63	3560	[redacted]	OS	T-Cuts Phaco CE w/IOL
7:15	[redacted] D	70	3831	[redacted]	OD	T-Cuts Phaco CE w/IOL
8:00	[redacted] D	66	2788	[redacted]	OS	T-Cuts Phaco CE w/IOL
8:30	[redacted] D	68	7304	[redacted]	OS	T-Cuts Phaco CE w/IOL
9:30	[redacted] D	63	11,104	[redacted]	OS	T-Cuts Phaco CE w/IOL
10:00	[redacted] D	77	11,508	[redacted]	OD	T-Cuts Phaco CE w/IOL
11:00	[redacted] D	52	1704	[redacted]	OS	Phaco CE w/IOL
11:30	[redacted] Tetracycline Iodine in CAT Scan	68	2153	[redacted]	OS	Phaco CE w/IOL
12:00	[redacted] D	54	10,031	[redacted]	OS	T-Cuts Phaco CE w/IOL
1:00	[redacted] PCN	49	1139	[redacted]	OS	UL Arocrine Cyst